



LAPORTE COUNTY BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

January 21st, 2020

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **January 21st, 2020, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mullins Mischke Earl Cunningham
 Dwayne Hogan Glen Minich
 Greg Szybala

PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege; Ashley
 Kazmucha, Secretary

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Melissa Mullins Mischke asked for approval of the meeting minutes of December 17th, 2019.

Dwayne Hogan made a motion to approve the meeting minutes of December 17th, 2019 as presented.

Earl Cunningham seconded.

Motion carries 5-0.

Petitions:

1. Petition for Variance of Developmental Standards for Gregorz and Monika Charmiec for an existing accessory structure forty-eight feet by eleven feet (48' x 11') with a four-foot (4') setback behind the home instead of the minimum required ten feet (10'). The property is located at 8116 W. Orchard Dr., Michigan City, IN., Coolspring Twp., zoned R1A. Parcel 46-05-22-426-050.000-046.

Attorney Biege stated notice is adequate.

Monika Charmiec stated her address is 8116 Orchard Drive, Michigan City, IN.

Monika Charmiec stated the structure is already there. The permit was issued before they put it up. The structure is the carport/garage where they keep all their garden accessories, jet boat, and patio furniture. The structure is full and in use. The structure has been there for two years.

Remonstrators:

Kim Barden stated her address is 8094 Orchard Drive. She has supplied the board members with packets to accompany her remonstrance.

Kim Barden stated if you look at the page one minutes from July 2018, the appearance was originally for a carport with an attached carport with a four-foot setback issued in error. Picture one shows that there is less than the four-foot setback the original permit was issued for and definitely not ten feet like the code states. The pictures labeled two and three show the structure is not a carport. What was added was a shed with a roll up door facing her property. When Monika Charmiec first began building the carport by Bart Pritz, Mr. Barden went and told Monika Charmiec she could not put the building where she originally wanted, represented by picture four, and Monika told him that they don't know what they are talking about and that she is putting it there. Mr. Barden went up to the courthouse to speak with the building department and subsequently had the building red tagged. Bart Pritz told Monika Charmiec he could not touch it because of the red tag. Monika Charmiec then went up to the building department the same day and obtained a building permit. Within twenty-four (24) hours, Mr. Pritz called Tony Hendricks to do a boundary retracement which supposedly showed that the Barden's fence of seventeen (17) years was on Monika Charmiec's property by inches, represented in picture five. In turn, it gave Monika Charmiec enough room to put up her barn without blocking her back window. Within twenty-four hours, the concrete was poured and in following few days the structure was built. Kim Barden asked who in the building commission office has the authority to grant a permit that was red tagged and grant one that is not legal within the LaPorte County Codes? The buildings are not carports. She is also in violation of the number of building you are allowed to have on your property. The buildings are interlocked at the roof line and are in violation of a code. Picture six shows a second shed. She called Maryanne about the shed being constructed, she was told that a person may have as many sheds as you want under one hundred and forty-four square feet (144 ft.²) on your property. She asked if she could put multiple sheds attached to one another, under one hundred and forty-four square feet (144 ft.²) and make a fence. Kim Barden stated Maryanne said yes, you may be a nuisance to your neighbor and be sued, but you can do it. Kim Barden stated that Monika Charmiec now has the barn where she wanted it originally. Her issue with it being there is they have no idea what it is being used for. Monika Charmiec is running a questionable spa business out of her home. They aren't sure if that is an addition to that or if she is storing items inside that have gas and oil which could potentially start a fire being that close to their home and her fence. Monika Charmiec's access driveway is on the other side of the property meaning she has to drive across her leech field in order to get to the barn. Kim Barden stated she is unable to use and enjoy her deck because of the blinding glare from her roof shown in pictures seven, eight and nine. The glare starts around 10:30 a.m. and goes until sunset. Their kitchen inside their home is affected as shown in pictures ten and eleven. It also gives off a lot of heat. They have thrown old chairs, a push mower, and garbage cans between her barn and their fence as shown in picture twelve. The curb appeal from all sides of her home is now horrendous depicted in picture thirteen. It will most likely in return

lower their property value. Kim Barden stated there is also a letter of remonstrance included from an adjacent homeowner who could not attend the meeting. Kim Barden asked the board that if that was their home, would they want that structure to be there?

(Maryanne in the aforementioned remonstrance is actually Annemarie Polan. Annemarie Polan did speak to Kim Barden. She told her one could have multiple sheds on their property, but that they could not be attached. Since this time, Annemarie has found code that states you are only entitle to one shed one hundred and forty-four square feet (144 ft²) or smaller along with one permitted accessory structure and a gazebo. The problem being that a person does not have to obtain a permit for a shed so the Building Department would never be aware of how many sheds a person has.)

Melissa Mullins Mischke asked Monika Charmiec if she had the new completed survey to show the Board.

Monika Charmiec gave the Board the new survey.

Glen Minich asked how far the building is from the side property line.

Monika Charmiec stated ten and a half feet (10'6").

Earl Cunningham asked what the distance is the second structure from the home.

Gregorz Charmiec stated his address is 8116 Orchard Drive.

Gregorz Charmiec stated that the second small structure is seventy square feet (70 ft.²) and is on the side of the home. It is not attached to the original structure.

Annemarie Polan stated there was no permit needed for that structure.

Ear Cunningham asked if a structure could be placed in the front yard.

Annemarie Polan stated if it is less than one-hundred and forty-four square feet (144 ft.²) we wouldn't even know. There is no permit for that. Annemarie Polan stated their second structure is not attached to the larger structure.

Monika Charmiec stated the second structure is right next to the larger building.

Greg Szybala asked what the original red tag was issued for.

Annemarie Polan stated it was for the first longer building for the setback.

Earl Cunningham made a motion to deny the petition for Variance of Developmental Standards for Gregorz and Monika Charmiec for an existing accessory structure forty-eight feet by eleven feet (48' x 11') with a four-foot (4') setback behind the home instead of the minimum required

ten feet (10'). The property is located at 8116 W. Orchard Dr., Michigan City, IN., Coolspring Twp., zoned R1A.

Dwayne Hogan seconded.

All Denied. Motion carries 5-0.

2. Petition for Variance of Developmental Standards for Timothy M and Gail E Lernihan to construct a thirty-six feet by forty-eight feet (36' x 48') pole barn second (2nd) accessory structure with a height of twenty-six feet (26') instead of the maximum eighteen feet (18') for personal use (not to be used as a dwelling). The property is located at 8167 W. Country Ln., Michigan City, IN., Coolspring Twp., zoned R1A. Parcel 46-05-27-200-079.000-046.

Attorney Biege stated notice is adequate.

Tim and Gail Lernihan stated their address is 8167 W. Country Lane, Michigan City, IN.

Tim Lernihan stated they bought a diesel pusher motorhome and they want to store it out of the weather instead of it sitting in their driveway.

Dwayne Hogan stated their property is pristine.

Melissa Mullins Mischke agreed.

Melissa Mullins Mischke asked if the structure will be way back in the corner.

Tim Lernihan stated it will back in the corner and ten feet (10') off the property lines. It will match the home and garage. It will be the same set up.

Melissa Mullins Mischke stated the exterior will be clad similar to the home.

Tim Lernihan stated yes.

Melissa Mullins Mischke asked if the structure will be metal.

Tim Lernihan stated it was supposed to be, but then they lost their builder. They have yet to decide if the structure will be stick-built or not.

Glen Minich asked if the barn behind the home currently is stick built.

Tim Lernihan stated yes.

Remonstrators:

James Cross stated his address is 1645 Ridgeview Road, Michigan City, IN.

James Cross stated he is a resident of Ridgeview subdivision. The original permit applied for a pole barn thirty-six by forty-eight by twenty-six-foot height (36 x 48 x 26'). Is it two story? For their convenience, neighbors think it will be a deterrent to the neighborhood lowering property values of their homes. Surrounding sub division of their quality do not have pole barns on their premises. Pole barns are large and tend to block views and lower property values. The petitioners already have a large two-story building on their property. The building is approximately thirty-four feet wide by eighty feet long (34' x 80'). It is accessible from the top and bottom the full length of the eighty feet. The pole barn would be situated on a hill ten to fifteen feet (10' – 15') higher than the existing road in front. This would be very noticeable to the neighbors across the street and to the side and rear of the lot considerably affecting their property values and view. There is a petition that has been signed by thirty-two (32) residents of Ridgeview subdivision who strongly oppose the building of this pole barn and feel that it would lower their property values. The building of two (2) large structures on a one-point-four (1.4) acre lot plus a very large house would be pushing the limit to the max. We think it would a bad precedent to start the approval of pole barns in subdivisions. There are people present who live across the street who will have to look at it every day. The original permit was not for a wood structure, it was for a pole barn.

Melissa Mullins Mischke stated there is a letter of remonstrance that was submitted by Thomas and Sandra Cipares, a letter from Floyd and Susan Demmon, and the signed petition from the Ridgeview Subdivision.

Melissa Mullins Mischke asked how large their second structure is.

Tim Lernihan stated it is thirty-two feet by seventy feet (32' x 70').

Melissa Mullins Mischke asked if it will be large enough to fit the motorhome.

Tim Lernihan stated no. It is large enough to fit his John Deere tractors.

Dwayne Hogan asked if the new structure will be metal.

Tim Lernihan stated they have not decided, but the front of it will definitely not be metal. The front will match the house. The trees will mask the building anyway.

Gail Lernihan stated on the one side of the property is arborvitae which will cover one side, but the rear is wooded area apart of other subdivision lots that are unperturbed as they are far back on the lots.

Greg Szybala asked why the existing structure is not big enough for a motor home.

Gail Lernihan stated it is two story and the height of the lower level is too low.

Tim Lernihan stated it was originally unable to store items on the second story, but he improved the area so he could store his tractors there. He collects cars on the first story.

Gail Lernihan stated the cars drive in the front and the lawn equipment is stored above and entered in from the back side.

Glen Minich stated they are asking for twenty-six feet (26'), but that is undetermined because he just needs it tall enough to fit the motorhome inside.

Tim Lernihan stated he should only need twenty-two feet (22'), but doesn't want to be held to it in case he needs a couple extra inches.

Dwayne Hogan made a motion to approve the Petition for Variance of Developmental Standards for Timothy M and Gail E Lernihan to construct a thirty-six feet by forty-eight feet (36' x 48') pole barn second (2nd) accessory structure with a height of twenty-six feet (26') instead of the maximum eighteen feet (18') for personal use (not to be used as a dwelling). The structure will not have metal siding and should match the home. The property is located at 8167 W. Country Ln., Michigan City, IN., Coolspring Twp., zoned R1A.

Glen Minich seconded.

Approved. Motion passed 4-1.

3. Petition for Variance of Developmental Standards for John W. Fritz to construct a residence with an attached garage with a front setback of four feet two inches (4'2") instead of the minimum required twenty-five feet (25'). The current house will be demolished, but the current garage will remain. The property is located at 312 Grayson Rd., LaPorte, IN., Center Twp., zoned R1B. Parcel 46-06-27-307-008.000-042.

Attorney Biege stated notice is adequate.

John Fritz stated his address is 642 114th Street, Whiting, IN.

Melissa Mullins Mischke asked if there is currently a residence on the property.

John Fritz stated yes, there is a house and detached garage.

Melissa Mullins asked if the house will be demolished and then rebuild.

John Fritz stated yes, and add a garage to the area that is open land. Once completed, the existing garage will come down. He is also requesting an east property line setback from ten feet (10') to nine feet (9'). The concrete contractor told him that he will need an extra foot to obtain the space for the foundation to the garage.

John Fritz shows pictures of where the proposed home will be, explaining where the setback will be and why the extra foot is needed to fit the forms in the ground.

John Fritz supplies larger drawings of the site plan showing for which area the variance will be for. He stated the reason for the variance is because he wanted to retain the healthy trees on his property. He wouldn't need the variance if he cut down the healthy trees.

Melissa Mullins Mischke stated that by saving the oak trees, it is causing him to move everything forward.

John Fritz stated that is correct.

Melissa Mullins Mischke asked how far the new structure will be from the pavement.

John Fritz stated it goes from eight feet two inches (8'2") on one side to ten feet (10') on the other side. Previously there was a line of pine trees behind the property line. He adds that a nearby home up the road has a structure forty inches from the road and shows this in a picture.

Remonstrators:

Mitch Biedul stated his address is 311 Grayson Road.

Mitch Biedul stated he lives across the road from John. He asked if the Board has ever approved a four feet two-inch (4'2") setback in the last three years on the island.

Melissa Mullins Mischke stated she has not personally voted for one, but not unanimously.

Mitch Biedul stated his other issue is with the common enemy doctrine. He has no recourse and in regards to surface water being so close to the road.

Melissa Mullins Mischke asked if he has standing water frequently.

Mitch Biedul stated no, he has no water problems in the past. He has no recourse with the common enemy doctrine in the state of Indiana.

Melissa Mullins Mischke state she has a letter of remonstrance from Janice and Eric Yandt that is not in favor.

John Fritz offers the Board pictures of the tree line and the property line compared to where the structure would be and where the road is.

Greg Szybala stated he does not understand the need for nine feet (9') instead of ten feet (10') on the East side.

John Fritz stated the garage is twenty inches (20") from where the proposed foundation wall would be. The concrete contractor said he needs a minimum of thirty-six inches (36"). If he can get another foot then he would be ok, but it would be nine feet (9') from the property line. John Fritz was told that he needed the extra length to fit in the forms.

Melissa Mullins Mischke stated she would like to see some trees removed and the home moved back off the road. The structure juts out way passed the other homes on the street.

Glen Minich stated it is a safety issue. It's a small street and if your home is four feet (4') from the property line, a kid could dart out and there wouldn't be enough time to react as a driver. The area is highly residential with a lot of children and activity.

John Fritz stated it is a quiet area.

Melissa Mullins Mischke asked if he lives there full-time.

John Fritz stated in the summer time he is there four days a week. He plans to live there full-time once his home is built.

Glen Minich made a motion to deny the Petition for Developmental Standards for John W. Fritz to construct a residence with an attached garage with a front setback of four feet two inches (4'2") instead of the minimum required twenty-five feet (25'). The current house will be demolished, but the current garage will remain. The property is located at 312 Grayson Rd., LaPorte, IN., Center Twp., zoned R1B.

Earl Cunningham seconded.

All Denied. Motion carries 5-0.

4. Petition for Variance of Use for Michael WC Wilson Jr. to operate a small engine repair shop with an unlighted sign. The property is located at 4755 S. 200 E., LaPorte, IN., Washington Twp., zoned A on 2 acres. Parcel 46-11-28-300-021.000-066.

Attorney Biege stated notice is adequate.

Michael Wilson stated his address is 4755 S. 200 E., LaPorte, IN.

Melissa Mullins Mischke asked if he is currently doing small engine repair.

Michael Wilson stated for friends and family on the side. He wants to go full-time.

Melissa Mullins Mischke stated he wants to put up a sign and make it official.

Michael Wilson agreed.

Melissa Mullins Mischke asked how long he has been doing small engine repair.

Michael Wilson stated ten (10) years.

Dwayne Hogan asked if he has been at this address the last ten (10) years.

Michael Wilson stated he has only been at his current address for three (3) years.

Melissa Mullins Mischke asked what his hours of operation would be.

Michael Wilson stated Monday through Saturday 9 am to 5 pm.

Melissa Mullins Mischke asked if he would be including Sunday by appointment.

Michael Wilson stated no, Sunday is for racing.

Melissa Mullins Mischke asked how large of a sign.

Annemarie Polan stated he is allowed a two feet by three feet (2' x 3') sign.

Melissa Mullins Mischke asked if that is acceptable.

Michael Wilson stated yes.

Melissa Mullins Mischke asked if customers usually leave their items to be repaired outside.

Michael Wilson stated they are always inside.

Melissa Mullins Mischke stated if customers come to drop off and pick up.

Michael Wilson stated yes and that he also picks items up.

Greg Szybala asked what his typical small engine repair would be.

Michael Wilson stated lawn tractors, motorcycles, and ATVs.

No remonstrators present.

Glen Minich asked if he has plenty of space inside to store everything.

Michael Wilson stated yes, everything is by appointment only.

Dwayne Hogan made a motion to approve the Petition for Variance of Use for Michael WC Wilson Jr. to operate a small engine repair shop with an unlighted sign with the hours of operation being Monday- Saturday 9 am – 5 pm. The property is located at 4755 S. 200 E., LaPorte, IN., Washington Twp., zoned A on 2 acres.

Earl Cunningham seconded.

All Approved. Motion carries 5-0.

5. Petition for Variance of Developmental Standards for Patrick Steinhiser (buyer) and Pabs Elizabeth F Trustee Trust of 11/26/84 (seller) for construction of a pole barn

with a bathroom prior to the residence being built with forty feet (40') of road frontage instead of the minimum required two-hundred feet (200'). The property entrance is located between 3208 and 3242 N. 950 W., LaPorte, IN., Coolspring Twp., zoned B3 on 11.424 acres. Parcel 46-05-16-376-024.000-046.

Attorney Biege stated notice is adequate.

Kathy Pahs-Rhodes stated her address is 3208 N. 950 W. and she is a trustee for her mother Elizabeth Pahs-Rhodes.

Patrick Steinhiser stated his address is 7469 Peachtree Lane, Michigan City, IN.

Melissa Mullins Mischke stated they want to put up a structure with a bathroom before building the residence.

Patrick Steinhiser stated yes.

Melissa Mullins Mischke stated they want to keep the structure.

Patrick Steinhiser stated yes.

Melissa Mullins Mischke asked if the structure will be used as a rental.

Patrick Steinhiser stated no.

Melissa Mullins Mischke stated the structure will have electric and water and be used for storage and live in the structure while the home is being built.

Patrick Steinhiser stated he will not be living there.

Earl Cunningham asked if he may stay in it while building.

Patrick Steinhiser stated no, he lives close enough to go home.

Melissa Mullins Mischke asked if the structure would be additional storage or a garage.

Patrick Steinhiser stated it would be additional storage.

Greg Szybala asked if Patrick Steinhiser is related.

Kathy Pahs-Rhodes stated no, we're letting an outsider in.

No remonstrators present.

Earl Cunningham asked if she represents the rest of the Pahs family and if they are in favor.

Kathy Pahs-Rhodes stated they are adjacent land owners and had to sign off on the sale anyway.

Greg Szybala asked how large the pole barn would be.

Patrick Steinhiser stated about fifty feet by eighty feet (50' x 80').

Melissa Mullins Mischke stated the address would need to be posted immediately at the entrance of the access road.

Earl Cunningham made a motion to approve the Petition for Variance of Developmental Standards for Patrick Steinhiser (buyer) and Pahs Elizabeth F Trustee Trust of 11/26/84 (seller) for construction of a pole barn with a bathroom prior to the residence being built with forty feet (40') of road frontage instead of the minimum required two-hundred feet (200'). The property entrance is located between 3208 and 3242 N. 950 W., LaPorte, IN., Coolspring Twp., zoned B3 on 11.424 acres.

Greg Szybala seconded.

All Approved. Motion carries 5-0.

6. Petition for Variance of Developmental Standards for Joseph and Alena Ursida for placement of a shipping container to store building materials and other household items and later converted to an accessory structure (shed) upon completion of the home remodel and for the construction of a second accessory structure (stick-built) to be used as a garage. The property is located at 4 S. Westfield Ave., LaPorte, IN., Pleasant Twp., zoned B1 on .5 acres. Parcel 46-11-23-403-012.000-057.

Petitioner not present; moved to the bottom of the agenda.

7. Petition for Variance of Use for Geraldine Hernandez to operate a metal art business in the accessory building located behind the home and to retain the existing four feet by seven feet (4' x 7') sign located in the front yard. The property is located at 5111 W. Schultz Rd., LaPorte, IN., Center Twp., zoned R1B. Parcel 46-06-18-226-019.000-042.

Attorney Biege stated that he has signatures from the adjoining neighbors and notice of publication is in order, but he has two receipts for certified mail and the green cards were not returned. There are two remaining addresses and they are presumed to be an attempt, but there is no proof. The Board may let this pass based on their discretion.

Melissa Mullins Mischke stated she is satisfied.

Geraldine Hernandez stated her address is 5111 Schultz Road, LaPorte, IN.

Martin Hernandez stated his address is 5111 Schultz Road, LaPorte, IN.

Melissa Mullins Mischke asked if he currently has a business at this location.

Martin Hernandez stated yes.

Melissa Mullins Mischke asked what the hours of operation are.

Martin Hernandez stated Monday through Friday 8 am – 4 pm.

Dwayne Hogan asked if there was any work being done on the weekend.

Martin Hernandez stated no, not at this time.

Dwayne Hogan asked if it would be by appointment only.

Martin Hernandez stated yes.

Greg Szybala asked how long the business has been in operation.

Martin Hernandez stated about six (6) months.

Melissa Mullins Mischke asked if there is an existing unlit sign on premises.

Martin Hernandez stated yes.

Melissa Mullins Mischke asked how large the sign is.

Martin Hernandez stated it is four feet by seven feet (4' x 7').

Melissa Mullins Mischke asked if customers frequent the address and park in the yard/driveway with extra vehicles or equipment.

Martin Hernandez stated he does not work with automobiles.

Melissa Mullins Mischke asked if customers would stay for prolonged periods of time.

Martin Hernandez stated no.

Melissa Mullins Mischke asked why he choses to work out of his home.

Martin Hernandez stated he takes care of his father-in-law who is a seventy (70) years old disabled veteran with stage five (5) Parkinson's disease. He is completely immobile. Martin Hernandez stated he also has a colostomy bag; instead of going on disability, he works from home since it is difficult to be in the work field.

Dwayne Hogan stated he commends Martin Hernandez for his entrepreneurship.

Martin Hernandez thanked Dwayne Hogan.

Melissa Mullins Mischke stated she has about sixteen (16) letters of remonstrance and they do appear to be a cookie cutter letter. There is one letter that reads the above subject is not accurate.

Earl Cunningham stated they are not so much cookie cutter as they are identical. One of the neighbors shared that the letters were distributed to the neighbors with an addressed envelope with a note on how to proceed with sending the letter.

Melissa Mullins Mischke stated one of the letters has a note written on it stating concern about industrial manufacturing, spillage, chemicals, poisons, and equipment being used under environmental supervision.

Martin Hernandez stated he does not use chemicals for welding and fabricating.

Melissa Mullins Mischke stated he has a young child in the home; he would not expose them to anything dangerous.

Martin Hernandez stated absolutely not. He also has three dogs that spend time outside.

Remonstrators:

Bruce Frankinburger stated his address is 3844 N. Claret Trail, LaPorte, IN.

Melissa Mullins Mischke asked how close he lives to Martin Hernandez.

Bruce Frankinburger stated he lives a block away.

Bruce Frankinburger stated he and his wife, Pat, have lived in Concord Hills for thirty-one (31) years. It is a lovely quiet neighborhood that they have enjoyed calling home since 1989. On November 9, 1976, when the subdivision was coming to fruition, an article in the LaPorte Herald-Argus characterized Concord Hills as the largest, richest subdivision in LaPorte County. The developer James Tibstra aimed to make it an exclusive area. Bruce Frankinburger stated that he represents a contingent of Concord Hills Homeowners and Residents. They have met and discussed their concerns over this variance to operate MNM Welding from a residence in Concord Hills and have agreed that this is not in their best interest to support the request for the variance. The welding operation is in direct violation of LaPorte County Zoning Ordinance that govern all properties in Concord Hill subdivisions. These properties are zoned single-family residential dwellings. The heart of their concerns involve the impact of the environment, the noise of the generators, the toxicity of the industrial processes used in welding, the threats to residents health, the threat of the contamination of their air and water, the impact of residential property values, etc. Welding of this nature requires the use of corrosive and toxic compounds which release dangerous gases into the air and left uncontained to lead to several severe health risks. OSHA lists all of these chemicals as products of welding: aluminum, arsenic, beryllium, cadmium, chromium, cobalt, copper, iron, lead, magnesium, nickel, silver, tin, titanium,

vanadium, zinc, argon, helium, nitrogen, carbon dioxide, nitrogen dioxide, carbon monoxide, ozone, hydrogen fluoride. It should also be noted that chromium is a component in stainless steel nefarious alloys; chromate coating in some welding consumables. Chromium is converted to the hexavalent state during the welding process. The chromium hexavalent is highly toxic and can damage eyes, skin, noses, throats, lungs, and can cause cancer. Health effects from fumes may cause lung damage, cancer, and prolonged exposure to magnesium fumes can cause Parkinson's. The welding process also produces toxic debris. It is not properly contained and collected for removal. It can add to these health risks and contaminate the water table from which residents in Concord Hills collectively draw their water supply. These are strict OSHA standards; they govern welding activities and collect contamination byproducts that they are not certain any of the standards are in place at MNM Welding. According to the OSHA website, the first line of defense in engineering controls is a safety plan and a dust and fume collection method. They have doubts that M&M Welding is compliant with these standards. They respectfully ask the Building Commission deny the issuance of the variance. They also respectfully ask that the sign be removed promptly from the property and that the business stop all welding processed immediately. They ask that the Building Commission enforce the current zoning laws that apply to all properties in Concord Hills subdivision and supervise the relocation of MNM Welding to a property zoned industrial that is more suited to the processes and activities of this business. A cursory visit to the MNM Welding Facebook page demonstrates that this is an industrial business, not a hobby that one engages with at home. The equipment is industrial grade and its' byproducts and debris pose a legitimate threat to the health of their residential community. As property owners, they ask that the variance be denied and MNM Welding ordered to be removed from the residence at 5111 W. Shultz Road and relocated to industrial property more suited to such a business. They respectfully place their trust in the Board to preserve the current zoning ordinances that govern this property and ask that they take their recommendation into account when rendering their decision.

Bruce Frankinburger stated that Martin Hernandez has gotten into several arguments, even at 11 pm at night, after his business hours. The 4 pm closing hour is not being followed.

Ignacio Hernandez stated his address is 4055 N. Wozniak Road, Michigan City, IN.

Ignacio Hernandez stated he worked in the mill for forty-one (41) years. He is seventy-two (72) years old and is in good health. He had worked around all of the chemicals mentioned previously, including acid, and he is still in perfect health.

Eduardo Lozano stated his address is 5045 W. Chablis Drive, LaPorte, IN.

Eduardo Lozano stated he has lived in Concord Hills five to six (5-6) years. He is about two to three hundred feet (200-300 ft.) from Martin Hernandez's home. He has no objection to the petition that he is applying for.

Anna Phillips stated her address is 5095 W. Shultz Road, LaPorte, IN.

Anna Phillips stated she lives right next door to Martin Harnandez. She never hears anything after 4 pm, everything is quiet. He keeps everything inside and he is very respectful.

Earl Cunningham asked how noisy it is between 8 am and 4 pm.

Anna Phillips stated it isn't noisy at all. Her three (3) year old naps through the day and never hears anything.

Earl Cunningham asked if she has ever heard any noise from that property louder than a lawn mower.

Anna Phillips stated no.

Clare Alexander stated her address is 3756 N. Claret Trail, LaPorte, IN.

Clare Alexander stated she is concerned about the chemicals and the effects upon neurological disease is there. His stepfather has stage five (5) Parkinson's. She has multiple sclerosis (MS). She doesn't need anymore chemicals near her.

Joe Sanders stated his address is 3811 N. Claret Trail, LaPorte, IN.

Joe Sanders stated he works for BP pipelines so he is well aware of what contaminants can occur if the welding residue is not corralled. They all have well water in that area and they are worried about contamination. If the particulates are not collected, they can cause a lot of damage. The damage may not be immediate but it is long term. People who work in steel mills all have residue in their bodies. New poisons do not need introduced into their air and land because they have a lot of young kids and older people with respiratory issues in the area. Joe Sanders stated he has heard noise around eight to nine (8-9) at night. The noise is from a welding generator which he initially thought was for power loss. He has heard several operations after hours.

John Ferguson stated his address is 5066 S. US 421, Westville, IN.

John Ferguson stated he met Martin Hernandez through other people. He is a disable veteran who uses MNM Welding as therapy. There are no harmful chemicals. OSHA also has specific laws for companies with under ten (10) people.

Bill and Valerie Dohner stated their address 5096 W. Chablis Drive, LaPorte, IN.

Bill Dohner stated his property is directly behind Martin Hernandez's home. He has heard the generator late into the evening as well as all day long. The noise is loud and heard through closed windows and doors. There is scrap and debris around the building in the rear. The noise is very disruptive.

Melissa Mullins Mischke stated she did visit the location and deemed the garage cleaner than hers. There is an air filtration system inside the garage. All environmental hazards looked to be handled within the garage. There is a concrete floor. She has a background in welding and tooling and did not see anything that would cause her concern. As for the noise concerns, the hours of operation will be restricted at this meeting. Anything that happened previously is not a concern to the Board.

Melissa Mullins Mischke asked how loud the generator is.

Martin Hernandez stated he does not use a generator for welding. All his power is three phase for all of his welders. The generator that he has if he loses power. He does not like working until 4:30 pm let alone 9 pm at night. He does not use a generator for welding; whether it be stick, mig, or tig, they are all quiet and only emit a hum. He is aware of OSHA laws and the last thing he would want to do would endanger his family or customers. He would not pollute the air like that. He has two ventilation systems. The one in his shop cleans the air seven and a half (7 ½) times per hour.

Melissa Mullins Mischke stated it was running while she was there and it was quiet.

Martin Hernandez stated safety is his biggest concern. He has a fire extinguisher and two first aid kits that are fully stocked. He does have a generator, but it is used for power only.

Dwayne Hogan asked if he has welding filters and a fume hood.

Martin Hernandez stated yes, two.

Geraldine Hernandez stated her son would never do anything to jeopardize his son and family when it comes to the atmosphere. He monitors that very carefully.

Earl Cunningham stated one of the remonstrators alleged that there was altercation late at night.

Martin Hernandez stated there was no altercation, but he has heard the rumor and it supposedly involved him hitting a person with a bat.

Melissa Mullins Mischke stated it's not relevant and hearsay.

Attorney Biege asked what Martin Hernandez is doing with the veterans.

Martin Hernandez stated he assists the veterans by letting them relax and learn a new hobby away from their problems. He was told that the veterans leave with a more positive attitude.

Earl Cunningham made a petition to approve the Petition for Variance of Use for Geraldine Hernandez to operate a metal art business in the accessory building located behind the home and to retain the existing four feet by seven feet (4' x 7') unlit sign located in the front yard. Hour of operation are Monday through Friday 8 am – 5 pm, Saturday and Sunday by appointment only. The outside of the property is to be cleaned up. The property is located at 5111 W. Schultz Rd., LaPorte, IN., Center Twp., zoned R1B.

Dwayne Hogan seconded.

All Approved. Motion carries 5-0.

8. Petition for Variance of Developmental Standards for William Sales (seller) and Thomas and Dana Kutz (buyer) for construction of a second accessory structure fifty-four feet by ninety-six feet (54' x 96') with a bathroom and a height of twenty-nine feet (29') instead of the maximum eighteen feet (18'). The property is located at 4555 W. Johnson Rd., LaPorte, IN., Center Twp., zoned R1B on 8 acres. Parcel 46-06-20-100-002.000-042.

Attorney Biege stated notice is adequate.

Dana and Thomas Kutz stated their address is 6247 N. Range Road, LaPorte, IN.

Dana Kutz stated she was told that the previous variance stays with the property and does not expire. They plan to continue hosting wedding receptions and those types of events on the property. They want to construct the building that would allow them to operate year-round. Currently the buildings on site are only able to be used May – October.

Melissa Mullins Mischke asked how long they have owned the property.

Dana Kutz stated they do not, the purchase is contingent on the variance being granted.

Thomas Kutz stated they also plan to restore the original red barn to its' original luster.

Attorney Biege stated the variance does not automatically go with the land. Any purchase made would be subject to the granting of a use variance by the Board.

Thomas Kutz stated they would like to ask for a use variance as well.

Attorney Biege stated they should notice the adjoining property owners of the use variance along with the barn construction. He suggests tabling the petition until next month to properly notify the neighbors and the public. They are asking for an expansion of the non-conforming use.

Dwayne Hogan made motion to postpone the Petition for Variance of Developmental Standards for William Sales (seller) and Thomas and Dana Kutz (buyer) until the February 18th meeting.

Earl Cunningham seconded.

All Approved. Petition tabled.

9. Petition for Variance of Developmental Standards for Chet & Stephanie Hunsley and Brian Hunsley to construct an accessory structure (detached garage) with living quarters above to be utilized as an apartment while the main house is being built, and then maintaining it as a guest house upon completion of the home. The two-acre parcel will be divided off if/when the variance is approved. The property is located at 14266 S. 750 W., Wanatah, IN., Cass Twp., zoned A on 10 acres. Parcel 46-17-14-100-006.000-001.

Attorney Biege stated notice is adequate.

Chet and Stephanie Hunsley stated their project address is 14266 S. 750 W., Wanatah, IN. Their personal address is 1172 S. 1025 W., Wanatah, IN.

Melissa Mullins Mischke stated there are existing structures on this property already.

Chet Hunsley stated yes, that it is his dad's land and he has fifty (50) acres all together. The current spot the home sits on is ten (10) acres and there are a few acres to the South of it. With the variance, they are going to parcel off two acres and build upon that.

Melissa Mullins Mischke asked if the U-shaped driveway, garage, and residence were their proposed plan.

Chet Hunsley stated yes.

Melissa Mullins Mischke stated they are going to put a garage out there with living space to live in while they build the residence.

Chet Hunsley stated yes. They are looking to build their dream home on the farm. They married four (4) years ago and have saved up for this. They are hoping to do this with just cash. They cannot afford all of it currently, but if they build the garage with living quarters, they could then sell their home and be debt free. They want to live in the apartment for a couple years to save the remaining money to finish the residence.

Melissa Mullins Mischke asked how long it will take to build the garage.

Chet Hunsley stated hopefully less than a year.

Melissa Mullins Mischke asked how long it will take to build the residence after that.

Chet Hunsley stated they plan to live in the apartment for two years and then begin construction on the house.

Melissa Mullins Mischke stated her only concern is that the garage apartment will be rented out after the home is constructed. Will it be used as a guest house only?

Chet Hunsley stated he has no intention of renting it out for a profit. One of his family members may stay there, but it would be family only.

Greg Szybala made a motion to approve the Petition for Variance of Developmental Standards for Chet & Stephanie Hunsley and Brian Hunsley to construct an accessory structure (detached garage) with living quarters above to be utilized as an apartment while the main house is being built, and then maintaining it as a guest house upon completion of the home. The guest house is not to be used for rental income. The two-acre parcel will be divided off if/when the variance is approved. The property is located at 14266 S. 750 W., Wanatah, IN., Cass Twp., zoned A on 10 acres.

Glen Minich seconded.

All Approved. Motion carries 5-0.

6. Petition for Variance of Developmental Standards for Joseph and Alena Ursida for placement of a shipping container to store building materials and other household items and later converted to an accessory structure (shed) upon completion of the home remodel and for the construction of a second accessory structure (stick-built) to be used as a garage. The property is located at 4 S. Westfield Ave., LaPorte, IN., Pleasant Twp., zoned B1 on .5 acres. Parcel 46-11-23-403-012.000-057.

Attorney Biege stated the remonstrators can request the petition to be dismissed for petitioner's failure to appear.

Debbie Wiltfong stated her address is 14 S. Westfield Avenue, LaPorte, IN.

Debbie Wiltfong requested the petition be dismissed for having the container on site without having approval and for not being present.

Annemarie Polan stated it was placed in violation and is still within seventy-five feet (75') of the drainage easement and it should not be.

Glen Minich made a motion to dismiss the Petition for Variance of Developmental Standards for Joseph and Alena Ursida.

Earl Cunningham seconded.

All approved. Petition dismissed.

Elections:

Melissa Mullins Mischke made a motion to retain Attorney Biege for 2020.

All Approved. Motion carries 5-0.

Dwayne Hogan nominated Melissa Mullins Mischke for Board President 2020.

Earl Cunningham seconded.

All Approved. Motion carries 5-0.

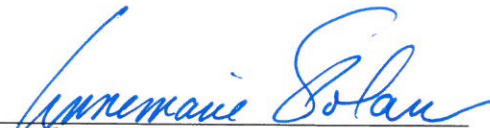
Glen Minich nominated Dwayne Hogan for Board Vice President 2020.

Earl Cunningham seconded.

All Approved. Motion carries 5-0.

There being no further business, meeting adjourned at 7:55 p.m.


Melissa Mullins Mischke, President


Annemarie Polan, Recording Secretary